

OFFICIAL COPY

Fresno, California

September 26, 2006

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Mike Dages	Councilmember
	Henry Perea	Acting Council President
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Jerry Duncan	Council President

Andy Souza, City Manager
Dave Hale, Acting City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

Councilmember Dages gave the invocation and Acting City Attorney Hale led the Pledge of Allegiance.

PROCLAMATION OF KIPP (KNOWLEDGE IS POWER PROGRAM) ACADEMY DAY - COUNCILMEMBER BOYAJIAN

Read and presented, with musical performances performed by the KIPP Academy Jazz Band.

APPROVE MINUTES OF SEPTEMBER 19, 2006

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of September 19, 2006, approved as submitted.

COUNCIL MEMBER REPORTS AND COMMENTS:

COUNCILMEMBER DAGES - (1) Thank you to Del Estabrooke and Jolene Wofford and staff for clean-up efforts for the housing project news conference last week; and (2) The Big Fresno Fair and encouragement to all to attend.

COUNCILMEMBER CALHOUN - Request staff to bring forth the Pinedale Specific Plan as promised a few years ago.

COUNCILMEMBER BOYAJIAN - (1) Request for information on City use of the Fresno High School swimming pool in terms of evaluating the pool condition for safety reasons, with City Manager Souza responding and stating he would have staff contact Councilmember Boyajian; (2) request for status on the Nepotism Ordinance; and (3) commendation to the American Lung Association on their great event this past Saturday.

COUNCILMEMBER WESTERLUND - Concern with the Utility Commission considering the issue of a downtown lake and request they not deal with that issue until it comes before Council, with City Manager Souza responding.

PRESIDENT DUNCAN - Direct staff schedule on the October 24th agenda a workshop on the proposed new lake feature for downtown and request staff provide any new information justifying the taking of 14 acres out of the tax roll for a lake.

APPROVE AGENDA:

(10:30 A.M.) CONTINUED HEARING ON ADOPTION OF A FINDING OF CONFORMITY WITH THE MEIR FOR THE 2025 GENERAL PLAN

1. RESOLUTION - 443RD AMENDMENT TO THE MASTER FEE SCHEDULE (MFS) RES. 80-420
2. BILL FOR INTRODUCTION ESTABLISHING A NEW CITYWIDE AND QUADRANT BASED MAJOR STREET IMPACT FEES

(Continue to October 17, 2006, at 10:30 a.m.)

Continued as noted.

(11:00 A.M. #2) CONTINUED HEARING TO CONSIDER AMENDING THE STORM DRAINAGE AND FLOOD CONTROL MAP AND AMENDING THE DRAINAGE FEES AND COSTS FOR EACH LOCAL DRAINAGE AREA FOR ALL DEVELOPMENTS WITHIN THE JOINT AREA OF THE CITY AND THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT

(Continue to January 10, 2007, at 10:00 a.m.)

Continued as noted.

(1-J) AWARD THE FOLLOWING MULTI-PRIME CONTRACT RELATED TO THE REMODELING OF THE SAROYAN THEATER LOBBY BID PACKAGE NO. 1

City Clerk Klisch advised the company involved was Davis Moreno Construction, Inc., and the contract amount was \$1,086,000.

On motion of Councilmember Westerlund, seconded by Acting President Perea, duly carried, RESOLVED, the **AGENDA** hereby approved, *as modified*, by the following vote:

Ayes	:	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes	:	None
Absent	:	None

ADOPT CONSENT CALENDAR:

Councilmember Calhoun commended staff on Item **1-J** and for working with Caltrans.

Councilmember Westerlund pulled Items **1-G** and **1-Q**, and Councilmember Boyajian pulled Item **1-J** from the Consent Calendar for discussion/action at 11:00 a.m.

(1-A) ADOPT MEMORANDUM OF UNDERSTANDING WITH AMALGAMATED TRANSIT UNION, LOCAL 1027 - UNIT 06 (ATU), COVERING THE PERIOD JULY 1, 2006, THROUGH JUNE 30, 2009

1. APPROVE A SIDE LETTER OF AGREEMENT WITH ATU REGARDING WAGE ORDER NO. 9-2001
2. APPROVE AN APPENDIX TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT (HRA) TO INCLUDE PARTICIPATION OF THOSE EMPLOYEES WHO ARE MEMBERS OF ATU
3. **RESOLUTION NO. 2006-430** - 7TH AMT SALARY RESOLUTION AMENDING EXHIBIT 6, TRANSIT (ATU)

(1-B) ADOPT MEMORANDUM OF UNDERSTANDING WITH THE CITY OF FRESNO PROFESSIONAL EMPLOYEES ASSOCIATION (CFPEA) - UNIT 13, COVERING THE PERIOD JULY 1, 2006, THROUGH JUNE 30, 2009

1. APPROVE A SIDE LETTER AGREEMENT WITH CFPEA REGARDING SUPERVISOR INCREASES
2. APPROVE AN APPENDIX TO THE CITY OF FRESNO RETIREE HEALTH REIMBURSEMENT ARRANGEMENT (HRA) TO INCLUDE PARTICIPATION OF THOSE EMPLOYEES WHO ARE MEMBERS OF CFPEA
3. **RESOLUTION NO. 2006-431** - 6TH AMENDMENT TO SALARY RESOLUTION AMENDING EXHIBIT 2, SECTION 2.4, MANAGEMENT NON-CONFIDENTIAL CLASSES AND SECTION 2.5, NON-MANAGEMENT CONFIDENTIAL CLASSES

(1-C) **RESOLUTION NO. 2006-432** - 5TH AMENDMENT TO SALARY RESOLUTION CORRECTING THE CALCULATION OF SHIFT PAY FOR TEMPORARY EMPLOYEES AND UPDATING THE DOCUMENTS TO CORRECTLY REFLECT MOU CHANGES RELATING TO ADMINISTRATIVE LEAVE

(1-D) REMOVE FINANCING LIMITATION IN THE AVIATION GROUP'S LEASE AT FYI AIRPORT TO FACILITATE SALE OF THEIR LEASE INTEREST TO ROSS FRESNO, LLC

(1-E) ADOPT PROPOSED SPENDING PLAN FOR FY 2006-07 STATE OF CALIFORNIA SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUNDS (SLESF)

1. RESOLUTION NO. 2006- 433- 17TH AMENDMENT TO THE AAR APPROPRIATING \$1,143,700 FOR THE SLESF PROGRAM FOR FRONT LINE LAW ENFORCEMENT OPERATIONS SUPPORT

(1-F) AUTHORIZE THE POLICE CHIEF TO ENTER INTO AND EXECUTE THE AMENDED AGREEMENT AND REQUIRED PROGRAM DOCUMENTS WITH THE OFFICE OF TRAFFIC SAFETY FOR THE HELP ELIMINATE ALCOHOL RE-OFFENDER TEAM (HEART) GRANT

1. RESOLUTION NO. 2006-434 - 15TH AMENDMENT TO THE AAR APPROPRIATING \$165,000 FOR THE HEART GRANT PROJECT FUNDED BY THE OFFICE OF TRAFFIC SAFETY

(1-H) ACTIONS RELATING TO THE SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) FUNDED BY THE OFFICE OF TRAFFIC SAFETY

1. RESOLUTION NO. 2006-435 - AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO AND EXECUTE THE AGREEMENT AND REQUIRED PROGRAM DOCUMENTS WITH THE CALIFORNIA OFFICE OF TRAFFIC SAFETY

2. RESOLUTION NO. 2006-436 - 14TH AMENDMENT TO THE AAR APPROPRIATING \$600,000 FOR THE PROJECT

3. RESOLUTION NO. 2006-437 - 3RD AMENDMENT TO THE PAR ADDING A POSITION IN THE POLICE DEPARTMENT FOR THE PROGRAM

(1-I) AUTHORIZE AN AGREEMENT WITH CALTRANS TO PROVIDE A FREEWAY LITTER CLEAN-UP PROGRAM WITH USE OF INMATE LABOR

1. RESOLUTION NO. 2006-438 - 18TH AMENDMENT TO THE AAR APPROPRIATING \$132,000 TO AUTHORIZE THE AGREEMENT

2. RESOLUTION NO. 2006-439 - 2ND AMENDMENT TO THE PAR ADDING A POSITION TO THE POLICE DEPARTMENT FOR THE PROGRAM

(1-K) RESOLUTION NO. 2006-440 - SETTING THE PUBLIC HEARING FOR OCTOBER 24, 2006, TO CONSIDER FORMATION OF UNDERGROUND UTILITY DISTRICT NO. FRE-87, ORANGE AVENUE BETWEEN NORTH AVENUE AND THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF STATE ROUTE 99

(1-L) APPROVE AN AMENDMENT TO THE AGREEMENT WITH TOWNSEND PUBLIC AFFAIRS TO PROVIDE ADDITIONAL LOBBYING SERVICES NOT INCLUDED IN THE ORIGINAL CONTRACT RELATED TO THE PENDING ENTERPRISE ZONE APPLICATION

(1-M) CONSIDER AND APPROVE MATTERS RELATING TO THE CITY HEARING OFFICER

1. APPROVE CONTRACT WITH JAMES DONABED FOR HEARING OFFICER SERVICES

2. APPROVE CONTRACT WITH ALAN VENGOYAN FOR HEARING OFFICER SERVICES

(1-N) APPROVE RESPONSES TO THE 2005-2006 GRAND JURY REPORT

(1-O) AUTHORIZE THE PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT TO RENEW THE SENIOR HOT MEALS SITE MANAGEMENT CONTRACT WITH THE FRESNO-MADERA AGENCY ON AGING FOR FY 2007

1. RESOLUTION NO. 2006-441 - APPROVING THE SENIOR HOT MEALS SITE MANAGEMENT/SERVICE PROVIDER CONTRACT AND AUTHORIZING THE EXECUTION OF DOCUMENTS

(1-P) AUTHORIZE THE PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT TO LEASE-PURCHASE TWO PREFABRICATED RESTROOM BUILDINGS FOR ROEDING PARK USING THE CITY'S MASTER LEASE AGREEMENT

(1-R) RESOLUTION NO. 2006-442 - 22ND AMENDMENT TO THE AAR RE-BUDGETING \$680,900 FROM VARIOUS COUNCIL DISTRICT INFRASTRUCTURE FUNDS BASED ON THE CARRY-OVER BALANCES FROM FY 2006

On motion of Councilmember Dages, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

148-115**9/26/06**

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(ADD ON) PROCLAMATION OF POLICE OFFICER BRIAN NIETO DAY

Read and presented. Mayor Autry and Chief Dyer commended Officer Nieto and thanked him for fulfilling his duties, and Officer Nieto and his parents, Larry and Mary, thanked everyone for their support and prayers.

(9:00 A.M.) UNSCHEDULED COMMUNICATION:

APPEARANCE BY SUNNYSIDE RESIDENT CLIFF DAVIS, 5493 E. GEARY, SPEAKING IN SUPPORT OF RETAINING THE TRAFFIC DIVERTER AT BUTLER AND PEACH AVENUES

Appearance made with Councilmember Dages advising the consideration of changing the plan to remove the diverter would on the Council agenda next week to start a process and that neighborhood meetings would follow.

(9:15 A.M. "A") APPROVE APPOINTMENT OF JEAN ROUSSEAU AS CITY CONTROLLER

City Manager Souza noted the two Councilmembers were able to meet last week with Mr. Rousseau as requested and stated staff looked forward to Council discussion and approval. Councilmember Dages stated he did have an opportunity to meet with Mr. Rousseau and Assistant City Manager Rudd and made a motion to approve the appointment, which motion was seconded by Councilmember Sterling.

Councilmember Westerlund stated his concern was with the pendency of the CPA status and upon his question Mr. Rousseau stated there had been no change. Councilmember Westerlund clarified this was not personal but he could not support the appointment without the CPA certification given the nature of the position. President Duncan stated he also met with Mr. Rousseau and felt he was a wonderful person but he could not support the appointment as Mr. Rousseau was currently not a Certified Public Accountant adding Fresno as the 6th largest city in the state and 35th in the country required that, and also because Mr. Rousseau had no experience in a city/municipal environment and added he looked forward to working with him. Relative to the CPA issue Mr. Souza clarified this was simply a matter of timing as Mr. Rousseau passed the exam, had the experience, and it was now a matter of getting the experience certified and signed off, added this was not a matter of inability to pass the exam or not having the background, and stated Mr. Rousseau was more than qualified with strong experience.

On motion of Councilmember Dages, seconded by Councilmember Sterling, duly carried, RESOLVED, the appointment of Mr. Jean Rousseau as City Controller hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling
 Noes : Westerlund, Duncan
 Absent : None

(9:15 A.M. "B") DISCUSSION AND ACTION ON STORYLAND/PLAYLAND GENERAL LIABILITY AND EXCESS LIABILITY INSURANCE FUNDING**1. RESOLUTION NO. 2006-443 - 7TH AMENDMENT TO THE AAR APPROPRIATING \$75,000 TO FUND THE INSURANCE**

(2 - 0) Management Analyst Zieba reviewed the issue, all as contained in the staff report as submitted, and recommended the resolution be adopted with the funds being distributed contingent upon the park reopening in the spring, the deficiencies pointed out by the risk analyst being addressed/repared, and a comprehensive business plan being submitted to ensure the long term viability of the park. Upon question of President Duncan Ms. Zieba confirmed staff was recommending the funds not be transferred until next spring.

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Barry Falke, representing Storyland/Playland (SL/PL), stated they did almost everything that was asked, clarified the insurance they were asking for was this years insurance and stated to not provide funds until next spring would be detrimental to the park, and requested, since they stepped up and complied and because the report came back relatively clear of any major issues pertaining to their guests, that Council consider distributing the funds contingent upon the special concern areas being completed adding they should be completed within the next two weeks.

Rick Larsen, Hanford, CA, amusement park owner, stated the park was important to the community and spoke to the financial assistance provided by the City and to the need for SL/PL to have a long-term plan.

Councilmember Dages spoke briefly to the background, stated although he preferred tax dollars be used elsewhere he felt this was important because in this situation people were volunteering their time and energy and doing the best they could and also noted the heat and restroom issues were setbacks and impacted the facilities, stated the emphasis was "one last time", offered his assistance in fund-raising, made a motion to approve the resolution with one-half of the funding now and the remaining half in the spring as a compromise noting SL/PL had obligations now, changed his motion to approve the \$75,000 now including a business plan and the deficiencies/repairs being taken care of, and stated SL/PL was an icon in Fresno and he wanted to see it succeed and thanked Rotary Club members for all they have done and wished them the best of luck in their future efforts. The motion was seconded by President Duncan.

Extensive discussion ensued. City Manager Souza, Mr. Falke, Wayne Thomas of the Board of Trustees, and Ms. Zieba responded to questions, comments and/or concerns of Councilmembers Calhoun, Westerlund, Boyajian and Sterling, and/or clarified issues relative to why SL/PL could not wait until spring to receive this money, if there was no insurance currently in place, the loans SL/PL has taken out and their line of credit issue, concern with the serious problems indicated in the report, how the facilities can operate when they are substandard, opposing the funding until another inspection is made and a report is received on the deficiencies being addressed, who the landlord was, support for SL/PL and it being hard to believe SL/PL would put children at risk and that an insurance company would insure a facility that is detrimental to children, the lake being a City issue and not SL/PL's responsibility, the inspection that occurred and amount spent, the importance of having a viable long-term plan, surprise that SL/PL is not concerned with receiving a clean bill of health, questions on the insurance company and provisions, if the \$75,000 was needed to clear debt, what assurance there was that the facilities would reopen in the spring if funding is approved, if insurance was currently in place, if fund-raising efforts would be successful, suggestion to close the facilities at the end of October to address the deficiencies (**3 - 0**), if the City submitted a copy of the assessment report to SL/PL's insurance company, if the City pays insurance towards SL/PL, if staff would support giving the funds now if facilities are closed in October to make repairs, and if staff can work with SL/PL as they go through the process.

Mr. Souza noted the two issues were (1) the appropriation of the \$75,000 and (2) how/when the funds are transferred, and asked that two motions be made. Relative to his motion, Councilmember Dages clarified he only altered staff's recommendation to pay in the spring and clarified the repairs and business plan were included, and upon question of President Dages further clarified the funds would be distributed after repairs are completed.

Discussion continued. Acting President Perea noted statements were made that fund-raisers were planned and it was SL/PL's hope that they would not be making another request next year and upon his question Mr. Souza stated it was the Administration's position that this was the third time and last time and staff would not be a position to recommend funding again next year. Upon the request of Councilmember Westerlund, Mr. Davis, former SL/PL Board member and Rotary Club member, spoke to the amphitheater the Rotary Club built and presented to the City adding that may be collateral, and added SL/PL were significant participants in the success of downtown and elaborated. Councilmember Westerlund stated Rotary's job was much appreciated but there was a burden as the report and photos spoke for themselves, concurred no one would knowingly put anyone at risk but stressed these were old facilities with problems and elaborated on them, relative to the motion questioned who would determine that repairs were satisfactorily made (with Ms. Zieba responding), and noting electrical issues were further down on the list and upon his request Councilmember Dages included the electrical repairs in the motion. President Duncan noted PL and SL have been here since 1955 and 1962 and would stay here if everyone works together, stated the motion made a lot more sense than staff's recommendation and gave a reminder that this was a seasonal business and off-season created cash flow problems, and stated he did not see the repair issue as death-defying and upon his questions Mr. Falke stated the repairs, including electrical and excluding Lake Washington, could be figured out in the next two weeks and he was supportive of the motion on the floor. President Duncan added the City had SL/PL's commitment for a business plan and a CIP, stated great changes were being made and stressed it was critical that this motion pass as SL/PL was a treasure that this community wanted and needed, stated a clear message had been made that this was the last time, and stated answers were out there and explained.

On motion of Councilmember Dages, seconded by President Duncan, duly carried, RESOLVED, the above entitled Resolution No. 2006-443 hereby adopted, with the transfer of funds contingent upon receipt of a business plan and completion of repairs/deficiencies

identified by the consultant, including electrical, by the following vote:

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Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

Councilmember Dages presented a personal check to Mr. Falke in the amount of \$500 to "start the repairs".

(9:15 A.M. "C") RESOLUTION NO. 2006-444 - ADOPTING AN INVESTMENT POLICY FOR PUBLIC FUNDS FOR FY 2006-07

Treasury Officer Wiles gave brief overview of the issue, all as contained in the staff report as submitted, and along with City Manager Souza responded to numerous questions of Councilmembers Westerlund and Boyajian relative to local banks, incentives, investments, partnering with local banks, and if staff continually looks at interest rates and other ways of investing.

On motion of Councilmember Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2006-444 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(9:45 A.M.) HEARING ON REZONE APPLICATION NO. R-05-109 AND ENVIRONMENTAL FINDINGS FILED BY NEW URBAN STRATEGIES, LLC, EAST SIDE OF N. CORNELIA BETWEEN W. BELMONT AND W. OLIVE AVENUES

1. CONSIDER AND ADOPT E.A. NO. R-05-109/T-5674, DATED JULY 27, 2006, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-147 - ORDINANCE NO. 2006-146 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM RR TO R-1/UGM

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Bernal advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Councilmember Sterling spoke in support stating this project would bring the county property into conformance with the general plan and would bring continuity to an area that is developing rapidly, and made a motion to approve staff's recommendation.

Councilmember Boyajian stated this was a good project but he could not support it based on traffic impacts, piecemeal growth, lack of a plan for the area, lack of infrastructure, cumulative impacts of the area not being looked at, and lack of money for mass transit. Mr. Bernal, Planning Manager Haro and Traffic Engineering Manager Mozier responded to questions of Councilmember Westerlund relative to road improvements to protect the rural/ag homesteads, traffic signals **(4 - 0** and requirements, frontage build-outs and improvements, Olive and Cornelia Avenue improvements and/or widenings, findings for increased lanes, and parcel sizes.

On motion of Councilmember Sterling, seconded by Acting President Perea, duly carried, RESOLVED, the above entitled environmental finding hereby approved, and the above entitled Bill No. B-147 adopted as Ordinance No. 2006-146, by the following vote:

Ayes : Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : Boyajian
 Absent : None

(9:50 A.M.) HEARING ON REZONE APPLICATION NO. R-06-25 AND ENVIRONMENTAL FINDINGS, FILED BY JOHN AND

MABEL ADAMS AND DARRYL AND GRETCHEN FREEDMAN, SOUTH SIDE OF W. WHITES BRIDGE AVENUE BETWEEN S. ARTHUR AND S. THORNE AVENUES

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1. CONSIDER AND ADOPT E.A. NO. R-06-25/TPM-2006-16, DATED JULY 13, 2006, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR

2. BILL NO. B-148 - ORDINANCE NO. 2006-147 - AMEND THE OFFICIAL ZONE MAP TO REZONE FROM C-6 AND R-1 TO R-2

President Duncan announced the time had arrived to consider the issue, opened the hearing, and upon his question Planner Bernal advised the staff report as submitted was complete and there was no new information to add.

Upon call, no one wished to be heard and President Duncan closed the hearing.

Councilmember Sterling spoke in support stating the project would bring the property into conformance with the general plan and address blight, and made a motion to approve staff's recommendation. Planning Manager Haro and Planning & Development Director Yovino responded briefly to questions of President Duncan relative to the status of the proactive rezoning approach.

On motion of Councilmember Sterling, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled environmental finding hereby approved, and the above entitled Bill No. B-147 adopted as Ordinance No. 2006-146, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(11:00 A.M. #1) CONTESTED CONSENT CALENDAR:

(1-G) AUTHORIZE RENEWAL OF AN EXISTING CONTRACTUAL AGREEMENT WITH THE COUNTY OF FRESNO FOR GRAFFITI ABATEMENT SERVICES ON CITY/COUNTY BORDERS AND IN COUNTY ISLANDS WITHIN THE CITY

1. RESOLUTION NO. 2006-445 - 19TH AMENDMENT TO THE AAR APPROPRIATING \$45,000 FOR RENEWAL OF THE EXISTING CONTRACTUAL AGREEMENT

Graffiti Supervisor/Police Sgt. Dooley and City Manager Souza responded to questions and comments of Councilmember Westerlund relative to how the program went last year, if funding lasted through the year/if any funds were not expended, contract provisions and term, and suggestion that staff talk with Fresno County relative to liberalizing their call-in policy. A motion and second was made to approve staff's recommendation. Acting President Perea requested staff also communicate to the County about the importance of community outreach so county residents are made aware of the program, and Councilmember Dages added he has also experienced problems with the County refusing to take calls and stated calls should be taken no matter if a city or county resident calls it in.

On motion of Councilmember Westerlund, seconded by Acting President Perea, duly carried, RESOLVED, renewal of the existing contract with the County of Fresno hereby approved, and the above entitled Resolution No. 2006-445 hereby adopted, by the following vote:

Ayes :	Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes :	None
Absent :	None

(1-J) AWARD A MULTI-PRIME CONTRACT IN THE AMOUNT OF \$1,086,000 TO DAVIS MORENO CONSTRUCTION, INC., FOR THE CONCRETE, DEMOLITION AND GENERAL SPECIALITIES BID PACKAGE 01 ON THE REMODELING OF THE SAROYAN THEATER LOBBY

Councilmember Boyajian made a motion to approve stating he meant to pull Item 1-K.

On motion of Councilmember Boyajian, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled contract hereby awarded as recommended, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

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Upon the request of City Manager Souza to submit concerns, Councilmember Boyajian stated his issue dealt with whether there was communication/coordination with the Redevelopment Agency on any costs associated with the conversion of public facilities and street right-of-way, with Mr. Souza stating staff would address the issue.

(1-Q) RESOLUTION NO. 2006-446 - AUTHORIZE THE PURCHASE OF AN AUTOMATED TELESCOPIC SEATING SYSTEM FOR SELLAND ARENA FROM FIGUERAS SEATING USA, INC., WITHOUT ADVERTISED COMPETITIVE BIDDING, IN ACCORDANCE WITH A.O. 3-3, AT A COST NTE \$1,375,680

Assistant Public Utilities Director Andersen and Assistant City Manager Rudd responded to questions of Councilmembers Westerlund and Boyajian relative to why this was a non-competitive bid when it was competitively bid before, if the cost was solely for seats, amount of the original bid, installation cost, if sufficient funds were budgeted, request to see a reconciliation, criteria and if time was a factor, if SMG employees will be able to handle the chairs, if installation will require a separate contract, and if automation was a factor in the specifications.

On motion of Councilmember Westerlund, seconded by Councilmember Dages, duly carried, RESOLVED, the above entitled Resolution No. 2006-446 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
 Noes : None
 Absent : None

(10:00 A.M.) WORKSHOP RELATING TO NAVIGANT CONSULTING ON PUBLIC UTILITY GOVERNANCE STRUCTURE

(The first portion was not recorded due to equipment malfunction.)* Assistant Public Utilities Director Andersen gave opening statements and a brief overview, and Navigant Consultant Riegle presented the issue which included an overview of the company, background of the issue, organizational assessment, features of utility organization options, evaluation criteria, California Special District Powers, *(recording resumes here)* financial assessment, and conclusion and observations, all as contained in the written follow-along material submitted.

Mr. Riegle and City Manager Souza responded to questions and/or comments of Councilmembers Westerlund, Sterling and President Duncan, and/or clarified issues relative to **(5 - 0)** the stated objectives, the priority being to provide the most efficient/reliable/cost-effective service, the reference to a rate reduction when all evidence appears to point to a substantial increase, basis for the rate reduction, district types/the municipal water district, the Community Choice Aggregation Program, time needed to improve the status quo option in the event a structure change does not occur, request to consider the disabled and those on fixed-incomes, driver of the stated objectives, balancing the loss of the in-lieu fee and providing the best service, there being no special districts in the state that include trash collection, if refuse collection should be separate from the rest of the analysis, and if the firm will be looking in-depth at city-operated commercial refuse. President Duncan cautioned about being concerned with replacing the in-lieu fee when going into a special district and explained, with Mr. Souza clarifying a special district was not a done deal. There was no further discussion.

(12:00 NOON) PRESENTATION BY MEMBERS OF CALIFORNIA PARTNERSHIP OF THE SAN JOAQUIN VALLEY ON THE STATUS ON THE STRATEGIC ACTION PLAN - MAYOR'S OFFICE

1. RESOLUTION NO. 2006-447 - SUPPORTING THE EFFORTS OF THE CALIFORNIA PARTNERSHIP FOR THE SAN JOAQUIN VALLEY

Mayor Chief of Staff White gave a brief opening statement and introduced Partnership members Larry Fortune and Lorraine

Salazar, and Larry Fortune made the presentation which included the Executive Order, participants, mission, work groups, summary of recommendations, results to date, and the next steps.

Mr. Fortune and Ms. White responded to questions and/or comments of President Duncan and Councilmembers Boyajian, Calhoun and Westerlund relative to how Council can communicate any questions/comments/concerns after today, the bullet train and if the partnership was going to lobby for it, purpose of the resolution and why Council can not see the final report, commendation to the Partnership, need to show a united front by adopting this resolution, what the next step will be after the report is concluded, if there was interaction with the federal

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government task force, need to include a research component for the UC Merced Medical School, concern with the central valley being left out, and request to consider including the high technology Theft Apprehension and Prosecution Program as a potential recommendation. A motion and second was made to adopt the Resolution. Councilmember Sterling thanked the Mayor and the Partnership stating this was an important first step adding if the valley is not a player at the table it will be overlooked.

On motion of Councilmember Westerlund, seconded by Councilmember Sterling, duly carried, RESOLVED, the above entitled Resolution No. 2006-447 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Westerlund, Duncan
Noes : None
Absent : None

(2-A) DISCUSSION AND DIRECTION REGARDING THE STATUS OF THE HUMAN RELATIONS COMMISSION (HRC) - COUNCILMEMBER STERLING

(6 - 0) Councilmember Sterling spoke to Susan Bechara's letter she submitted to Council last week (included as part of her report this date) and Enrique Reade's resignation, stated she wanted to give some direction on how the Commission can be revamped/revitalized noting the HRC has not been functioning for some time, stated in a city with so many problems, issues and diversity she felt the HRC should be in place, and requested the City Manager, working with her, look into how the integrity of the HRC could be revamped, revitalized and re-established and bring the matter back so appointments can be made. City Manager Souza clarified even though the HRC was budgeted through the his office it was not a function of the City Manager's office, stated the HRC was established by Council and if it was the will of Council to make a change staff assistance and resources would be provided, and added he did not believe it was appropriate for the City Manager to establish the role and activity of the HRC. Councilmember Sterling then stated she wanted to formulate a committee to look into the HRC and report back so it can become a functioning part of the City Council again, and clarified what was currently happening would become null and void and Council would start over again and reestablish rules and regulations to make the HRC a viable commission.

Councilmember Westerlund noted it was late into the lunch hour and 5 items were still left to consider and upon his request and by Council consensus the lunch recess was called with the matter continued to 2:00 p.m.

LUNCH RECESS - 12:48 P.M. - 2:02 P.M.

(2-A) DISCUSSION AND DIRECTION REGARDING THE STATUS OF THE HUMAN RELATIONS COMMISSION - CONTINUED

Councilmember Sterling gave a brief overview and asked for Council input. Councilmember Calhoun stated the HRC served its purpose and needed to be put to rest, stated there had been numerous self studies and President Duncan's appointees were unable to do anything which said to him no one cared, noted the HRC was formed back in the 80s when there was dissension and police issues but those issues were not happening today and the purpose was gone, and stated he was not supportive of another study, he supported disbanding the Commission permanently which would reduce the frustration of the remaining members and the City Council, and made a motion to disband the HRC immediately, which motion was seconded by President Duncan.

Councilmember Boyajian stated this was a political issue and he always supported the HRC but the political will of the Council was needed to bring the Commission back to how it was and elaborated further on the issue. President Duncan stated he felt it was appropriate to dissolve the structure given the situation, stated he would support Councilmember Sterling if she wanted to explore a new and improved Commission adding a positive organization doing positive things to bring people together would be good, and asked that

any member interested in serving on a committee contact Councilmember Sterling or himself. Councilmember Sterling clarified she was supportive of disbanding the Commission as it currently was and wanted to revamp it and bring it up to date as it relates to the community, stated she did not want to see any of the programs like Cesar Chavez or Martin Luther King disbanded, and upon question Mr. Souza stated the programs would not be affected and would continue.

On motion of Councilmember Calhoun, seconded by President Duncan, duly carried, RESOLVED, the Human Relations Commission disbanded effectively immediately, by the following vote:

148-121

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Ayes : Calhoun, Dages, Westerlund, Duncan
 Noes : Boyajian, Perea, Sterling
 Absent : None

(2-B) APPOINTMENT OF COUNCIL SPECIAL BUDGET COMMITTEE TO CONSIDER EXPENDITURE OF SURPLUS FUNDS - ACTING PRESIDENT PEREA

Acting President Perea gave a brief overview of the issue, all as contained in his report to Council as submitted.

Budget Manager Smith gave an in-depth PowerPoint presentation which included an update on the fiscal situation, General Fund and Proposition 42 unallocated carryover, the key contributors, year-end results, and on-going and future challenges, and stated staff agreed with Acting President Perea's recommendation for a Council committee.

Acting President Perea stated this was a nice position to be in and a unique opportunity for staff and Council to work together and made a motion to approve the committee structure along with the recommended appointees of President Duncan, himself as Acting President, and Councilmember Dages as the immediate past President, which motion was seconded by Councilmember Boyajian and later acted upon.

Councilmember Sterling thanked all involved and stated her questions and concerns were how Council members would relay their individual thoughts (and advised of her priorities), the utility rate issues currently facing the City, housing and fee impacts, and time lines for reports back to Council. Upon question of President Duncan, Acting City Attorney Hale stated individual Council members could communicate their recommendations to the committee and attend committee meetings as long as the Brown Act is not violated with a quorum.

Councilmember Westerlund stated he was supportive of the structure but not the nominees stating he wanted to be considered for the committee, and along with Councilmembers Boyajian and Dages presented questions and/or comments relative to when the Resource Cabinet meets, the Mayor already having his idea on how to expend the funds, interest in seeing the Resource Cabinet's thoughts, if the Committee could look into and make recommendations on the \$350,000 of unallocated CDBG funds, concern with the Committee's ability to get a consensus with the other members (with Councilmember Westerlund stating he would be willing to expend the time, energy and effort to reach a consensus), the importance of collaboration, if Proposition 42 funds were for roads projects, Councilmember Boyajian stating he was also interested in serving on the committee due to his experience, support for the money going to create capital/sales tax/property tax and bring big businesses here, need to get an appropriate return on whatever stays in the reserve, need to direct the \$3.3 million to where it is best needed, and the importance of resurfacing older roads **(7 - 0)**, with Ms. Smith and City Manager Souza responding throughout. Councilmember Westerlund stated he could not support the motion because of the nominees and requested Council consider having open nominations.

Mr. Souza clarified issues and responded to questions of Councilmember Calhoun and President Duncan relative to whether there were previously approved projects that were not moving forward due higher than anticipated costs, if those projects would be priorities for Proposition 42 funds (and request that staff provide the committee with that information), clarification that a big chunk of the \$10 million was related to property taxes and there being a two year horizon in terms of stability and confidence in projections, the Administration's position/expectations being clear and how the Resource Cabinet will be able to function with any level of independence, and if the Council committee will get to see the Cabinet's recommendations.

On motion of Acting President Perea, seconded by Councilmember Boyajian, duly carried, RESOLVED, a Council Special

Budget Committee consisting of President Duncan, Acting President Perea and Councilmember President Dages hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
 Noes : Westerlund
 Absent : None

President Duncan stated he would work with the City Attorney on what the Council Committee can do to get everyone's input and upon his recommendation Acting President Perea was selected Chair of the Committee.

(***Note** - At the end of the meeting Councilmember Boyajian clarified he was supportive of establishing the committee but not the recommended members and meant to vote no, and a subsequent motion and second to reconsider the matter failed.)

148-122

9/26/06

(2-C) ESTABLISHING A COUNCIL POLICY ON TAKING POSITIONS ON ELECTION MEASURES AND CANDIDATES - PRESIDENT DUNCAN

President Duncan stated his report was clear and noted this policy, if adopted, would keep Council from getting themselves into situations where they have to take positions on extremely partisan activities unless they are within the city's subject matter jurisdiction, added it would help eliminate a lot of potential problems and divisiveness among the Council as some issues can be very emotional, clarified this would not prevent any member from getting as involved as they want in any issue, and made a motion to approve the policy, which motion was seconded by Councilmember Westerlund.

Councilmember Calhoun stated this was a legitimate issue to discuss even though he was opposed to it, stated he felt this restricted his First Amendment rights as an elected official and added he did not want to be put in a situation of having to ask what does and does not pertain to the city of Fresno, and elaborated further on the issue and upon his question Acting City Attorney Hale stated he did not see this policy as a constitutionality issue and further clarified it would not change the set of procedures by which Council functions which were established in Resolution 2003-137.

Acting President Perea stated he supported Council not being able to take a position on a particular candidate and added if that was the case it should be codified, stated his concern with the proposed policy was "Council only taking formal positions on measures that are within the Council's subject matter jurisdiction" noting although Proposition 84 would not directly put money into the City's coffers it would affect the region and added there was a lot of bipartisan support for it, stated Councilmembers have been pretty good in not trying to put each other in a political box by bringing forth controversial issues, and stated he not could support this policy as presented but he would if it could be expanded to state Council can consider taking positions on issues that affect the region or the valley.

Councilmember Dages stated to his knowledge the City Council has never endorsed a candidate, stated he was having a tough time with this as he had full intentions of supporting the next item--Proposition 84--as it would enhance the city, the county and the region and added he did not want to be restricted (with President Duncan speaking to the intent of the policy), and advised in January he would serving on the San Joaquin River Conservancy Board and it was only appropriate that he support the Proposition and clarified he would support it whether he was on the Board or not.

Upon question of Councilmember Westerlund, Mr. Hale stated the procedures in Resolution 2003-137 did not indicate what the subject matter jurisdiction was for Council and spoke further to the research conducted on the proposed policy. Councilmember Westerlund stated there was really no good definition of what Council as a body thinks is or is not subject matter and elaborated, stated he appreciated the sentiment and added the intent was in the right perspective but he felt Council policed themselves very well in terms of what is brought forth adding there were some internal and external influences that keep Council focused on the business of the city, and stated there was already a procedure to deal with initiatives that may come forth that are beyond the city's subject matter jurisdiction.

Councilmember Boyajian stated his problem was also with "subject matter jurisdiction" and questioned how Council can define that when the City Attorney can not, and recommended more specific language be included such as taking positions on measures "that are in the purview of the City" and elaborated **(8 - 0)**, with Mr. Hale responding throughout.

Councilmember Calhoun stated the essence of democracy was free and open discussion and he did not want to see anyone's hands tied and elaborated, and stated this policy would have a chilling effect on what Council can do and encouraged members to have trust in one another.

President Duncan stated his intent was to have a tool in place to help Council and stated after hearing Council's comments and respecting them he would withdraw his motion. There was no further discussion.

(2-D) RESOLUTION NO. 2006-448 - IN SUPPORT OF PROPOSITION 84 - THE CLEAN WATER, PARKS AND COASTAL PROTECTION BOND OF 2006 - ACTING PRESIDENT PEREA AND COUNCILMEMBER CALHOUN

Acting President Perea spoke briefly to what Proposition 84 would provide for, all as included in his report as submitted, and pointed out there was a broad base coalition of support for the Proposition and urged Council's support. Councilmember Calhoun stated he sadly had to resign from the San Joaquin River Conservancy Board due to teaching schedule conflicts, and spoke to what the Board does and to the importance of this Proposition passing so the Conservancy can continue to purchase the remaining 40% of parkway land.

148-123

9/26/06

On motion of Acting President Perea, seconded by Councilmember Calhoun, duly carried, RESOLVED, the above entitled Resolution No. 2006-448 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling
 Noes : Westerlund
 Absent : None
 Abstain : Duncan

(2-E) ADOPT AMENDMENT TO THE VIDEO POLICING POLICY MANUAL REGARDING THE MONITORING OF POLITICAL DEMONSTRATIONS - PRESIDENT DUNCAN

President Duncan reviewed the background of the issue, stated this amendment would address concerns expressed by members of the public and spoke to his work with the Police Chief and members of the community, stated everyone felt comfortable with this amendment and added the Police Department would still have the tools they need to be able to protect citizens and officers while insuring those engaging in a political event that big brother will not be out there keeping an eye on them, and stated this was consistent with what the Police Department was trying to do and made a motion to approve.

Councilmember Calhoun stated although he opposed the cameras he felt this was very appropriate and commended President Duncan, Chief Dyer and everyone else involved. Councilmember Westerlund stated the current policy was a good policy with appropriate protections in place for demonstrators and officers and stated this was bad policy with no protections and explained.

On motion of President Duncan, seconded by Councilmember Sterling, duly carried, RESOLVED, the amendment to the Video Policing Policy Manual hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Dages, Perea, Sterling, Duncan
 Noes : Westerlund
 Absent : None

President Duncan advised a statement was made to him by a well known businessman who has been involved with the City for a long time that this Council was the best group he had seen in 30 years, and stated he just wanted to convey his support for that statement.

(2-B) APPOINTMENT OF COUNCIL SPECIAL BUDGET COMMITTEE TO CONSIDER EXPENDITURE OF SURPLUS FUNDS - ACTING PRESIDENT PEREA (Continued from earlier in the meeting)

Councilmember Boyajian clarified he was supportive of the committee structure but not recommended members and meant to vote "no", and asked that the matter be reconsidered so he could change his vote.

A motion of Councilmember Boyajian, seconded by Councilmember Calhoun, to reconsider the matter failed, by the following vote:

Aye : Boyajian, Calhoun, Westerlund
Noes : Dages, Perea, Sterling, Duncan
Absent : None

ADJOURNMENT

There being no further business to bring before the City Council, the hour of 3:36 p.m. having arrived and hearing no objections, President Duncan declared the meeting adjourned.

Approved on the ____3rd____ day of ____October____, 2006.

_____/s/____ ATTEST:_____/s/____
Jerry Duncan, Council President Yolanda Salazar, Assistant City Clerk